

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Aberin et al. v. American Honda Motor Co., Inc.

No. 3:16-cv-04384-JST

**FOURTH JOINT CASE
MANAGEMENT STATEMENT**

Complaint filed: August 3, 2016

Judge: Hon. Jon S. Tigar

Pursuant to this Court's Minute Entry Order, dated July 14, 2017, (D.E. 102), the parties hereby submit their Fourth Joint Case Management Statement. The parties will appear for the Fourth Status Conference in Courtroom 9 on August 24, 2017 at 2:00 p.m. Pacific time.

1. STATUS OF THE PARTIES' DISCOVERY

a. Discovery Propounded by the Plaintiffs:

i. **Request for Production of Documents, Set One**

1. Date propounded: January 9, 2017

2. Status:

a. Defendant American Honda Motor Co., Inc. ("AHM")
made an initial production responsive to some of
Plaintiffs' demands by producing:

i. Warranty booklets for each plaintiff's model and
year,

ii. Owner's manuals for each plaintiff's model and
year, and

iii. Technical Service Bulletins pertaining to the HandsFreeLink Bluetooth system.

b. AHM responded on April 17, 2017.

3. Next steps required to complete the discovery or conclude any dispute regarding that discovery: As discussed below, discovery matters have been referred to Judge Ryu.

ii. **Interrogatories, Set One**

1. Date propounded: January 9, 2017

2. Status: AHM's responses on April 17, 2017.

3. Next steps required to complete the discovery or conclude any dispute regarding that discovery: As discussed below, discovery matters have been referred to Judge Ryu.

iii. **Request for Production of Documents, Set Two**

1. Date propounded: June 12, 2017

2. Status: AHM responded on July 21, 2017.

3. Next steps required to complete the discovery or conclude any dispute regarding that discovery: Plaintiffs are reviewing AHM's responses to Plaintiffs' discovery and will meet and confer with AHM about any perceived deficiencies and/or issues that are not already presented by the First Set of discovery demands. As discussed below, discovery matters have been referred to Judge Ryu.

iv. **Interrogatories, Set Two**

1. Date propounded: June 12, 2017

2. Status: AHM responded on July 21, 2017.

3. Next steps required to complete the discovery or conclude any dispute regarding that discovery: Plaintiffs are reviewing

AHM's responses to Plaintiffs' discovery and will meet and confer with AHM about any perceived deficiencies and/or issues that are not already presented by the First Set of discovery demands. As discussed below, discovery matters have been referred to Judge Ryu.

b. Discovery Propounded by the Defendant:

i. **Requests for Production of Documents, Set One**

1. Date propounded: March 31, 2017.
2. Status: Plaintiffs' responded on June 29, 2017. AHM proposed a protocol to govern the related inspection of Plaintiffs' vehicles and cellular telephones on June 29, 2017. Plaintiffs responded with proposed changes to the proposed inspection protocol on July 11, 2017. AHM will continue to meet and confer with Plaintiffs in an attempt to finalize the protocol, and scheduling the inspections. The parties will be presenting the current status of these discussions to Judge Ryu, as discussed below.
3. Next steps required to complete the discovery or conclude any dispute regarding that discovery: AHM is reviewing Plaintiffs' responses. As discussed below, discovery matters have been referred to Judge Ryu.

ii. **Interrogatories, Set One**

1. Date propounded: March 31, 2017
2. Status: Plaintiffs responded on June 29, 2017.
3. Next steps required to complete the discovery or conclude any dispute regarding that discovery: As discussed below, discovery matters have been referred to Judge Ryu.

1 i. Status:

- 2 1. On November 18, 2016, the parties submitted a stipulation
3 consenting to private mediation on or before August 1, 2017.
4 (D.E. 37.)
5 2. The Court “so ordered” the same. (D.E. 40.)
6 3. On June 30, 2017, the parties submitted an amended
7 stipulation consenting to private mediation on or before
8 February 26, 2018. (D.E. 93)
9 4. The Court “so ordered” the same on July 5, 2017. (D.E. 95)

10 b. **Second Amended Class Action Complaint (Consolidated Actions)**

11 i. Status:

- 12 1. On April 25, 2017 the Court entered its Order on AHM’s
13 Motion to Dismiss. (D.E. 81). On June 28, 2017, the Court
14 entered an Amended Order on AHM’s Motion to Dismiss.
15 (D.E. 91).
16 2. On June 28, 2017, the parties submitted a proposed order
17 consolidating the *Aberin* and *Burgess* actions. (D.E. 90). On
18 June 28, 2017, the Court entered the order consolidating the
19 two actions. (D.E. 92)
20 3. On July 7, 2017, Plaintiffs filed their Second Amended Class
21 Action Complaint. (D.E. 98)

22 ii. Next steps:

- 23 1. On July 12, 2017, the parties submitted a stipulation providing
24 AHM until August 21, 2017 to answer, move or otherwise
25 respond to the Second Amended Class Action Complaint.
26 (D.E. 100)

27 c. **ESI Protocol**

i. Status:

1. On March 31, 2017, the parties submitted a stipulated proposed ESI protocol order to the Court.
2. The Court entered the submitted ESI protocol order on Monday, April 3, 2017. (D.E. 77.)
3. The parties have been engaged in a meet and confer process related to ESI Search Terms and other discovery matters relevant to the discovery from ESI sources.
4. On July 21, 2017, AHM voluntarily produced a corpus of 1,346 pages (158 documents). Some of the documents are ESI, and some were voluntarily provided by affiliates of AHM. AHM produced the information to assist Plaintiffs in further development of proposed ESI search terms from an informed perspective. Although Plaintiffs appreciate that the list of documents was selected unilaterally by AHM and believe the documents may be of no wider utility, AHM believes in good faith that these documents are among the most salient and relevant documents in this case.
5. Plaintiffs are reviewing these documents in the parties' continuing efforts to finalize an initial list of ESI search terms.
6. The parties intend to test the initial set of ESI search terms against the sources of ESI to determine if further refinements need to be made, and whether cost-sharing would be appropriate in light of proportionality principles as measured against Plaintiffs' discovery demands.

7. The parties will be presenting the current status of these discussions to Judge Ryu, as discussed below.

d. Protective Order

i. Status:

1. On March 31, 2017, the parties submitted a stipulated proposed Protective order to the Court.

2. The Court entered the submitted Protective order on Tuesday, April 4, 2017. (D.E. 78.)

ii. Next steps required to conclude any dispute: None.

e. *Plaintiffs (Opposed) Motion for Appointment of Interim Co-Lead Class Counsel and Appointment of Executive Committee*

i. On June 22, 2017, Plaintiffs filed their motion to appoint interim co-lead class counsel and to establish an Executive Committee to accommodate and recognize each of the two lawsuits. (D.E. 85). On July 6, 2017, AHM filed an opposition to Plaintiffs' Motion. (D.E. 96). On July 13, 2017, Plaintiffs filed their reply in further support of their Motion. (D.E. 101).

ii. The Court directed that it will hear argument on the Motion for Appointment of Interim Co-Lead Class Counsel and Appointment of Executive Committee at the August 24, 2017 Status Conference.

f. *Referral of Discovery Disputes to Magistrate Donna M. Ryu*

i. In a minute entry following the Third Status Conference, this Court stated that it "will refer the parties to Magistrate Judge Ryu for the resolution of discovery disputes. The Court will issue a written referral order. By June 30, 2017 the parties shall file a proposed order or competing proposed orders that lists when a discovery letter brief is due to Judge Ryu, and what disputes the joint letter brief will resolve." (D.E.89)

- ii. On June 30, 2017, the parties submitted a joint statement with the Court, including a proposed process for presentation of the discovery disputes by August 10, 2017. (D.E. 94)
- iii. On August 1, 2017, Judge Ryu entered an Order Setting Discovery Planning Telephone Call. (D.E. 103). Judge Ryu will be holding an informal discovery planning telephone call on August 31, 2017 at 1:00 p.m. Pacific time. The parties are to continue their efforts to meet and confer and be prepared to discuss an overall discovery plan, priorities and phasing, and are to be prepared to brief the court regarding the status of the disputes outlined in their June 30, 2017 joint discovery statement. The parties continue to work to informally resolve or at least limit discovery disputes requiring Judge Ryu's intervention.

DATED: August 14, 2017

Respectfully submitted,

Attorneys for Defendant American Honda Motor Company, Inc.

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SIGNATURE ATTESTATION

I am the ECF User whose identification and password are being used to file the foregoing Stipulation. In compliance with Civil Local Rule 5.1, I hereby attest that the signatory has concurred in this filing.

Dated: August 14, 2017

By: /s/ Christopher A. Seeger